

ACTION BY: Regional Directors
Special Nutrition Programs

SOURCE CITATION: Section 225.13

Approval of Sponsors Under Investigation or Audit
in the Summer Food Service Program

Applications of sponsors who are currently under investigation or audit or which have outstanding obligations related to their prior participation in the Summer Food Service Program should be evaluated on a case-by-case basis. Sponsors are entitled to due process, and the existence of an ongoing investigation or audit is not by itself grounds for denial of an application. A basis for denial, however, may be found in the reasons for conducting the investigation or audit or in documents not considered in the audit or investigation. The rule of thumb in either case involves the determination by the administering agency that the sponsor has or has not been seriously deficient in its operations based on the facts available to it.

Similarly, where an audit or investigation is ongoing and the amount of reimbursement due to a sponsor in a previous year is in dispute, the sponsor may not be denied approval solely because of this fact. Approval or denial should still be based on the administering agency's decision that the sponsor was or was not seriously deficient.

Finally, where a sponsor has otherwise performed successfully, but has failed to meet its financial obligations under the Program (e.g., failed to pay employees, vendors, etc.), denial would be appropriate if the administering agency had documented evidence to support such allegations and the evidence was sufficient to support a determination of fiscal irresponsibility. Such a finding would not be appropriate if a sponsor presented an acceptable plan for meeting its prior obligations in the current year. However, applications should not be approved for any sponsor which has had a recurring problem meeting its financial obligations.

With reference to all of the foregoing, Program regulations (225.13(c)) specifically provide for denial of an application based on a determination that a sponsor has in the past: failed to comply with bid and contract requirements; has submitted false information to the administering agency; has

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not made suitable arrangements to return reimbursements which exceeded amounts earned; or has had violations at a number of its sites. As suggested in that section, this is not a comprehensive listing of grounds for denial, but is intended to give specific examples of the type of deficiencies which warrant such action.

Please encourage States to consult with you on any situation when there is doubt or concern about the action contemplated.

A handwritten signature in black ink, appearing to read "Sam P. Bauer", is positioned above the printed name.

SAMUEL P. BAUER
Director
Child Nutrition Division